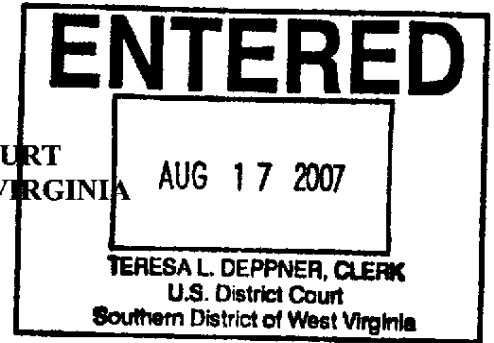


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

BECKLEY DIVISION



FELIX ROSADO,

Petitioner,

v.

CIVIL ACTION NO. 5:06-cv-00696

CHARLES FELTS,

Respondent.

JUDGMENT ORDER

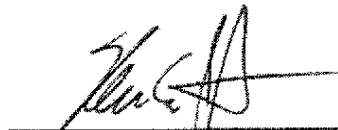
By Standing Order entered on August 1, 2006, and filed in this case on September 7, 2006, this action was referred to United States Magistrate Judge Mary E. Stanley for submission of proposed findings and a recommendation (PF&R). Magistrate Judge Stanley filed her PF&R on January 23, 2007 [Docket 8]. In that filing, the magistrate judge recommended that this Court dismiss without prejudice Petitioner's section 2241 application [Docket 1], pending the resolution of the administrative remedy process.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and Petitioner's right to appeal this Court's order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge

Stanley's PF&R were due by February 9, 2007, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). To date, no objections have been filed.*

Having reviewed the Proposed Findings and Recommendation filed by Magistrate Judge Stanley, the Court **ADOPTS** the recommendation contained therein. Accordingly, the Court hereby **DISMISSES WITHOUT PREJUDICE** Petitioner's Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody [Docket 1], and **DIRECTS** the Clerk to remove this action from the Court's docket. The Court further **DIRECTS** the Clerk to send a copy of this Judgment Order to all counsel of record and all unrepresented parties.

ENTER: August 17, 2007



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE

* Following the entry of the PF&R, Plaintiff filed a letter requesting a copy of the docket sheet and sent the Court a letter indicating that he "concurs" with Magistrate Judge Stanley and requests that the findings be held in abeyance. The second letter has been attached to this order as Exhibit A. The Court declines to hold this matter in abeyance. Rather, the Court will adopt the magistrate judge's recommendation to permit Petitioner to re-file his case, if necessary, following the resolution of the administrative process.

EXHIBIT A

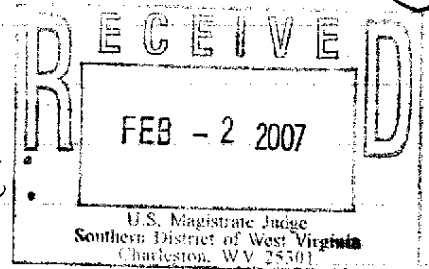
(1-28-07)

: The United States District Court for the Southern District of West Virginia - at Beckley:

: felix Rosado - Petitioner - Pro-se:

v.

: Charles felts - Warden - Respondent:



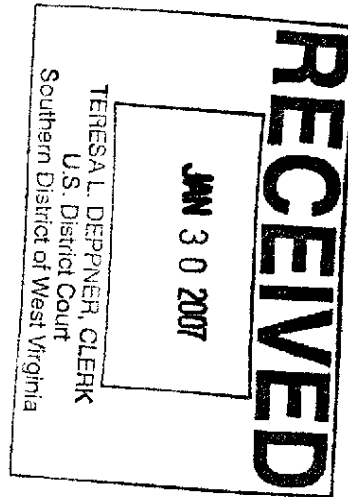
(Action No. 5:06-CV-00696)

: Motion to Concur With the Honorable United States Magistrate's Proposed findings, Dated 1-23-07, and Request Thereby that the findings be Held in Abeyance:

Indeed, in Good faith, respectfully, and as a Legal Thrust of this Motion, The Petitioner states that he is immediately Re-filing the Administrative Remedies, beginning from the Date of the Magistrates finding 1-23-07;

This Petitioner therefore request that this Honorable Court allow him the reasonable time frame, for Remedies exhaustion, by Placing the findings in Abeyance, and that, thereafter, The Petitioner, in Good faith, will immediately Notify this Court, as to whether the responses would be adverse or favorable, after such Exhaustion of all Remedies; Respectfully submitted, felix Rosado

Name: Mr. Felix Rosales
Reg #: 00752-748
Federal Correctional Institution-Beckley
P.O. Box 350
Beaver, WV 25813



: To = The Chambers of The
Honorable United States Magistrate Judge
Mary E. Stankley
United States District Court
110 N. Weber Street
Beckley, West Virginia (25801)

